



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,289	09/08/2003	Timothy Hewitt	60340-043	1379

27305 7590 03/26/2008
HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
----------	--------------

3724

MAIL DATE	DELIVERY MODE
-----------	---------------

03/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,289

Applicant(s)

HEWITT ET AL.

Examiner

Kenneth E. Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 3724

1. Applicant's petition to revive, received 14 May 07, has been granted. The case has been withdrawn from abandonment and the RCE has been entered. A new, non-final action follows.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the below cited references.

Miller et al.(6,360,642) shows a fence assembly having most of the recited limitations including slidable fence beam (104) and studs (150) that stick out both sides of the fence beam. Miller also shows a first fence face (132 in figure 1) and a second fence face (132 in figure 2).

Miller's studs mate with his fence faces via a head and slot, but not a keyhole shaped slot. Examiner takes Official Notice that it is well known to employ multiple keyhole connections on fences as seen in figure 7 of Theising (5,181,446). It would have been obvious to one of ordinary skill in the art to have modified Miller by making the fence face connections employ keyhole slots engaging the stud heads, as is well known and taught by Theising, since this is an art recognized equivalent known for the same purpose of connecting machine parts together.

In regards to the limitations of lines 5-24 of claim 1 (the recess, plates, studs, keyholes, fasteners, grooves), Examiner takes Official Notice that such fastening systems are old and well known. The patents to Welch (3,645,162) and Miklavic et al.(5,752,356) shows such systems, including the groove (Miklavic's 25 in figure 2). It would have been obvious to one of ordinary skill in the art to have further modified Miller by making his keyhole connections be of the type shown by Welch or Miklavic, since the mere substitution of known elements to obtain predictable results is considered to be obvious.

In regards to claim 2, Miller obviously could have two fence faces mounted simultaneously as well, since the courts have ruled that it is obvious to have redundant parts (St. Regis Paper Co. vs Bemis Co. Inc 193 USPQ 8,11). It would have been obvious to one of ordinary skill in the art to have provided two fence faces simultaneously, so that the operator would not need to keep switching a single one back and forth. By analogy, it is obvious to keep a stapler at both your home and your office, so you don't have to keep carrying one back and forth.

In regards to claim 3, it is not clear if Miller's fence face is taller than his fence beam. Examiner takes Official Notice that such is well known. For example, see the patents to Collignon (2,726,692) (9,21) and Sellmeyer (2,315,458) (68). It would have been obvious to one of ordinary skill in the art to have made the fence face taller than the fence beam, as taught by Collignon and Sellmeyer, in order to have a sufficiently large guiding face for the workpiece.

In regards to claim 4, Miller's fence face is made out of metal.

Art Unit: 3724

In regards to claim 5, Examiner takes Official Notice that it is well known for fence parts to be made out of wood. See for example Osborne (5,979,283)(line 27, column 6). It would have been obvious to one of ordinary skill in the art to have made the fence face out of wood, as is well known or taught by Osborne, in order to save production costs.

In regards to claim 6, Examiner takes Official Notice that it is well known for fence faces to be made out of wood. See for example Collignon '693 (21). It would have been obvious to one of ordinary skill in the art to have made the fence face out of wood, as is well known or taught by Collignon, in order to save production costs.

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth E. Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Mon-Thur, 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth E Peterson/
Primary Examiner, Art Unit 3724